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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,626	05/18/2004	John Elasic	12051-00001-US	3625

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EXAMINER

CLEMENT, MICHELLE RENEE

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/709,626

Applicant(s)

ELASIC, JOHN

Examiner

Michelle (Shelley) Clement

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3, 8, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Drackett (US Patent # 6,845,701). Drackett discloses a ballistic shield comprising a shield having a front face and a reverse face and formed of KEVLAR®, a ballistic material (reference 17), a viewing window (reference 20) through the shield, a handle (reference 37) associated with the shield and a firearm (reference 40) mounted to the shield and dischargeably operable when so mounted. The firearm is mounted so that it discharges in a direction substantially perpendicular to the front face of the shield. The shield is employable (column 4, lines 5-20) and the firearm is dischargeable with a single arm operation if so desired (since bracket 38 supports the firearm, only one hand is needed to pull the trigger).

3. Claims 1, 2, 4, 7, 9, 13, 14 and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Owens (US Patent # 4,153,927). Owens discloses a ballistic shield (reference 10) comprising a shield having a front face and a reverse face and formed of a ballistic material, a viewing window through the shield (the shield is formed of LEXAN®), a handle (reference 56) associated with the shield and a firearm (reference 120) mounted to the shield and dischargeably

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operable when so mounted. The firearm is selected from the group consisting of taser guns, pistols, revolvers, gas discharge firearms. The firearm comprising a safety (i.e. disabling sensor to disable the firearm in response to a predetermined signal or a absence of a signal). The viewing window is polycarbonate polymer. The firearm is mounted so that it discharges in a direction substantially parallel to the rear face of the shield. The shield further comprising one or more communications accessories mounted to the shield selected from the group consisting of: radio, camera, digital camera, video camera, cellular phone, cellular video, audio speaker, megaphone, homing signaling device, and global positioning transponder. The shield further comprising a light source (reference 78).

4. Claims 1 and 10-12 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Campbell (US Patent # 6,435,071). Campbell discloses a ballistic shield comprising a shield (reference 7) having a front face and a reverse face (Figure 1) and formed of a ballistic material; a viewing window through the shield; a handle (the vehicle has any number of handles associated with it including the steering wheel) associated with the shield; and a firearm (reference 61) mounted to the shield and dischargeably operable when so mounted. The shield further comprising a second firearm (reference 59) mounted to the rear face of the shield, so that it discharges in a direction substantially parallel to the rear face of the shield.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (US Patent # 1,747,142) and Slockbower (US Patent # 2,457,929). Campbell discloses a ballistic shield comprising a shield having a front face and a reverse face and a formed of a ballistic material; a viewing window (reference 60) through the shield, a handle (reference 20) associated with the shield; a first firearm (reference 17) mounted to the shield and dischargeably operable when so mounted; a second firearm mounted to the shield and dischargeably operable when so mounted (page 1, lines 55-65), wherein the second firearm is mounted so as to discharge in a direction that is different from a discharge direction of the first firearm. Although Campbell does not expressly state that the ballistic shield comprises one or more light sources mounted to the shield, it is well recognized for motor vehicles to have headlights. Although Campbell does not expressly disclose a disabling sensor to disable the firearms in response to a predetermined signal or a predetermined absence of a signal, Slockbower does. Slockbower teaches a safety attachment for firearms wherein the firearm is disabled in response to a predetermined absence of a signal (i.e. a hand properly positioned on the device). Slockbower and Campbell are analogous art because they are from the same field of endeavor: ordnance. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the firearm utilizing a safety as taught by Slockbower with the ballistic vehicle as taught by Campbell. The suggestion/motivation for doing so would have been to obtain an armored vehicle that had safe weapons.

7. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Resnick (US Patent # 6,272,781) and Logan (US Patent # 6,098,196). Resnick discloses a ballistic shield comprising a shield having a front face and a reverse face and formed of a ballistic material; a

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handle associated with the shield and a taser gun mounted to the shield and dischargeably operable when so mounted. Although Resnick does not expressly mention the battery it is inherent that a power source (i.e. battery) would present, since the taser gun would not operate without such a source. Although Resnick does not expressly disclose a viewing window through the shield, Logan does. Logan teaches a ballistic shield comprising a shield having a front face and a reverse face and formed of a ballistic material, the shield further comprising a viewing window. Logan and Resnick are analogous art because they are from the same field of endeavor: body armor. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the viewing window as taught by Logan with the ballistic shield as taught by Resnick. The suggestion/motivation for doing so would have been to obtain a vest that could also protect the users face.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Owens as applied to claim 1 above, and further in view of Cutler (US Patent # 3,766,865). Although Owens does not expressly disclose the ballistic shield having a handle that is a forearm cuff, Cutler does. Cutler teaches a protective shield device that has a strap handle that could be used as a forearm cuff. Cutler and Owens are analogous art because they are from the same field of endeavor: shield devices. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the strap handle as taught by Cutler with the shield as taught by Owens. The suggestion/motivation for doing so would have been to obtain a shield that could be easily held in a defensive position as suggested by Cutler in figure 1.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aharon (US Patent # 5,060,554). Aharon discloses a ballistic shield comprising a shield having a front face

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and a reverse face and formed of a ballistic material; a viewing window through the shield; a handle (i.e. the steering wheel) associated with the shield and a firearm (reference 4) mounted to the shield and dischargeably operable when so mounted and one or more mirrors (reference 6) associated with the viewing window.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Winn (US Patent # 1,244,679), Fuqua (US Patent # 6,807,890), Russell (US Patent # 2,020,702), (US Patent # 6,564,687), Kaiser (US Patent # 5,829,653), and Finn et al. (US Patent # 4,016,666).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Clement whose telephone number is 571.272.6884. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

